

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 42.2.302, 42.2.303, 42.2.304,)	PROPOSED AMENDMENT
42.2.305, 42.2.306, 42.2.307,)	
42.2.308, 42.2.310, 42.2.311,)	
42.2.312, 42.2.313, 42.2.321,)	
42.2.322, 42.2.323, 42.2.324,)	
42.2.325, 42.2.501, 42.2.503,)	
42.2.504, 42.2.505, 42.2.510,)	
42.2.511, 42.2.520, and 42.2.901)	
pertaining to the department's)	
general rules and definitions)	

TO: All Concerned Persons

1. On June 12, 2014, at 9 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on June 2, 2014. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or lalogan@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY. In accordance with 2-4-314, MCA, the department conducted a biennial review of its administrative rules and proposes amending the rules in this notice to update statutory references due to recodification, remove outdated statutes, provide additional supporting statutes, and replace general statute title and chapter references with the specific statutes (where practical) to meet current ARM formatting standards.

The department also proposes to update addresses and phone numbers, to update form names and a policy date, to correct grammar and punctuation, and to remove obsolete language and make general revisions to meet current ARM formatting standards and practices.

For these reasons, it is necessary for the department to make the proposed corrections contained in this notice. This general statement of reasonable necessity applies to all of the following proposed actions and will be supplemented as appropriate for any additional proposed rule change.

4. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.2.302 REQUESTS FOR INFORMATION (1) Citizens desiring information about anything mentioned in these rules or about anything concerning the department and public participation should contact the Department of Revenue, P.O. Box 5805, Helena, Montana 59604-5805, or visit the department's Internet web site at www.mt.gov/revenue revenue.mt.gov.

AUTH: 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA

IMP: ~~Title 2, chapter 3, part 1~~ 2-3-101, 2-3-103, 2-3-111, 15-1-201, MCA

42.2.303 APPOINTMENTS WITH DIRECTOR OR DIVISION ADMINISTRATORS (1) Any individual or group of individuals may make appointments to meet with the director or division administrators regarding any matter of concern to those individuals and under the responsibility of the department. Such appointments may be made by contacting the Department of Revenue, P.O. Box 5805, Helena, Montana 59604-5805, telephone ~~(406)~~ 444-6900, or toll-free outside of Helena (866) 859-2254.

AUTH: 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA

IMP: ~~Title 2, chapter 3, part 1~~ 2-3-101, 2-3-103, 2-3-111, 15-1-201, MCA

42.2.304 DEFINITIONS The terms used by the department are, in great part, defined in Titles 15, 16, 39, and 72, MCA. In addition to these statutory definitions, the following definitions apply to ARM Title 42, unless context of a particular chapter or rule provides otherwise:

(1) "Amended return" is a return that amends the original return defined in ~~(34)~~(36).

(2) through (5) remain the same.

~~(6) "Business income" is income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations. In essence, all income which arises from the conduct of trade or business operations of a taxpayer is business income. For purposes of administration, the income of the taxpayer is business income unless clearly classifiable as nonbusiness income.~~

(7) through (12) remain the same, but are renumbered (6) through (11).

~~(13)~~(12) "Dependent" means any individual listed in ~~15-30-113~~ 15-30-2115, MCA, as amended, over one-half of whose support for the calendar year in which the taxable year of the taxpayer begins was received from the taxpayer. In determining whether or not an individual received for a given calendar year over one-half of his support from the taxpayer, there shall be taken into account the amount of support received from the taxpayer as compared to the entire amount of support the individual received from all sources, including support which the individual himself supplied.

(14) through (17) remain the same, but are renumbered (13) through (16).

~~(48)~~(17) "Earned income" means:

(a) wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered; and

(b) the amount of the taxpayer's net earnings from a trade or business which is wholly or partially subject to the federal ~~self-employment~~ self-employment tax.

(19) through (30) remain the same, but are renumbered (18) through (29).

~~(31)~~(30) "Lookback period", for purposes of the voluntary disclosure program, means the filing periods agreed upon for which returns must be filed and all taxes and statutory interest must be paid under a voluntary disclosure agreement.

(32) remains the same, but is renumbered (31).

~~(33)~~(32) "Montana source income" is defined in ~~45-30-404~~ 15-30-2101, MCA, and the statute should be consulted to determine whether particular income is "Montana source income" obligating a nonresident to file a Montana individual income tax return, and a pass-through entity to file a Montana information return. In general, all income from work performed in the state, real or personal property located in the state, and business conducted in the state is Montana source income. Gain realized from transfer of real or personal property located in the state remains Montana source income notwithstanding that recognition of the gain is deferred and regardless of the deferral mechanism.

(a) and (b) remain the same.

~~(34)~~ "Nonbusiness income" means ~~all income other than business income.~~

~~(35)~~(33) "Noncontiguous parcels of land" means land acreage in the same ownership that meets one of the two following standards:

(a) remains the same.

(b) acreages that would meet the definition of contiguous contained in ~~(9)~~(8) were the acreages not separated by one or more of the following features only:

(i) through (v) remain the same.

(36) through (42) remain the same, but are renumbered (34) through (40).

~~(43)~~(41) "Pass-through entity information return" means the same as ~~(27)~~(26).

(44) and (45) remain the same, but are renumbered (42) and (43).

~~(46)~~(44) "Qualified entity", for purposes of the voluntary disclosure program, is a corporation, trust, limited liability company, or partnership that meets the conditions in ~~ARM 42.4.310(2)~~ 42.2.310.

~~(47)~~(45) "Qualified individual", for purposes of the voluntary disclosure program, is an individual who meets the conditions in ~~ARM 42.4.310(2)~~ 42.2.310, or is a beneficiary of a trust that meets the conditions in ~~ARM 42.4.310(2)~~ 42.2.310.

~~(48)~~(46) "Qualified partner", for purposes of the voluntary disclosure program, is an individual or entity who is treated as a partner of a qualified entity for federal income tax purposes and who themselves meets the conditions of ~~ARM 42.4.310(2)~~ 42.2.310.

~~(49)~~(47) "Qualified shareholder", for purposes of the voluntary disclosure program, is a shareholder in an S corporation that is a qualified entity as defined in ~~(46)~~(44), and who themselves meets the conditions of ~~ARM 42.4.310(2)~~ 42.2.310.

(50) remains the same, but is renumbered (48).

~~(51)~~(49) "Reasonable cause" means the ~~customer~~ taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return,

or pay the tax within the prescribed time, or object to a department action as provided for in ARM 42.2.510. Examples of what does or does not constitute reasonable cause may be found in ARM 42.3.105.

(52) remains the same, but is renumbered (50).

~~(53)~~(51) "Residence" means the same as ~~(17)~~(16).

(54) and (55) remain the same, but are renumbered (52) and (53).

(54) "Return information" includes a taxpayer's identity, the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over-assessments or tax payments, or any other data received by, recorded by, prepared by, furnished to, or collected by the department with respect to a return or with respect to the determination of the existence or possible existence of liability or the amount of liability of any person under Title 15, MCA, for any tax, penalty, interest, fine, forfeiture, or other imposition of any offense. The term does not include data in a form that cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer.

~~(56)~~(55) "S corporation" means an incorporated entity for which a valid federal S corporation election is in effect. "S corporation" and "subchapter S corporation" are synonymous. The term "small business corporation" is also synonymous with "S corporation," except that certain S corporations are allowed to continue to file Montana corporation license tax returns as provided in ~~45-30-1101~~ 15-30-3301, MCA.

(57) and (58) remain the same, but are renumbered (56) and (57).

~~(59)~~(58) "Statement of Account (SOA)" means the first notice provided to the taxpayer that ~~a debt is owing to the state of Montana of an amount owed to the department or of a violation. It may include, but is not limited to, a notice of refund reduction, net operating loss adjustment, tax debt, fine, or notice of a violation of the laws administered by the department. It does not include notices pertaining to inheritance taxes, estate taxes, or liquor licensing matters.~~

(60) and (61) remain the same, but are renumbered (59) and (60).

~~(62)~~(61) "Taxpayer" means any person (which may include any corporation, partnership, firm, association, or person acting as a business entity) or fiduciary, resident or nonresident, subject to but not limited to, a tax, license fee, royalty, or permit imposed by the laws state of Montana or a liability for payment of a debt collected by the department. ~~Taxpayer includes any corporation, partnership, firm, association, or person acting as a business entity.~~

(63) remains the same, but is renumbered (62).

AUTH: 15-1-201, ~~15-30-305~~ 15-30-2620, 15-31-501, 16-1-303, 16-10-104, 16-11-103, MCA

IMP: 1-1-215, 15-1-102, 15-1-206, 15-1-601, ~~45-30-101, 15-30-105, 15-30-131, 15-30-142, 15-30-1101, 15-30-1102, 15-30-1111, 15-30-1112, 15-30-1113, 15-30-1121~~ 15-30-2101, 15-30-2104, 15-30-2111, 15-30-2602, 15-30-3301, 15-30-3302, 15-30-3311, 15-30-3312, 15-30-3313, 15-30-3321, 15-31-101, 15-31-111, Title 15, chapter 31, part 3, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity in number 3 of this notice, the department proposes amending ARM 42.2.304 to correct an erroneous citation found in the definitions of qualified entity, qualified individual, qualified partner, and qualified shareholder. The department, when attempting to streamline its rules and avoid potential confusion, also proposes eliminating two definitions that are more specifically defined in another chapter of the rules and proposes modifying other definitions to clarify their respective applicability.

The department further proposes to define "return information" to advise taxpayers that the department considers tax return information to include other information and materials gathered during an audit or inquiry related to a tax return. The proposed definition mirrors language already approved by the legislature in 15-1-108, MCA. Although the definition in that section of the statute is provided specifically for tax preparers, it accurately describes the information the department uses to determine a taxpayer's filing requirements and therefore is proposed to be included as part of these general definitions.

42.2.305 AVAILABILITY AND RETENTION OF TAXPAYER RECORDS

(1) and (2) remain the same.

AUTH: 10-4-203, 10-4-212, 15-1-201, 15-53-155, 15-60-104, 16-10-104, 16-11-103, MCA

IMP: 10-4-203, 10-4-207, 10-4-212, 15-53-150, 16-11-118, 16-11-202, 16-11-203, MCA

42.2.306 PENALTY AND INTEREST (1) through (3) remain the same.

(4) For purposes of determining interest on the underpayment of estimates provided in ~~15-30-244~~ 15-30-2512, MCA, the rate in effect on the original due date of the tax return shall be used. For example, a return for the 2007 tax year is due April 15, 2008, so the rate that became effective January 1, 2008, shall be used to compute interest on the underpayment of estimates.

AUTH: 15-1-201, 15-1-216, 16-10-104, 16-11-103, ~~39-51-301~~, MCA

IMP: 15-1-206, 15-1-207, 15-1-216, 15-1-701, 15-1-708, 15-30-2512, 16-1-409, 16-1-411, 16-11-143, MCA

42.2.307 ACCOUNTING METHODS (1) and (2) remain the same.

AUTH: ~~15-30-305~~ 15-30-2620, 15-31-501, MCA

IMP: ~~15-30-101~~ 15-30-2101, 15-30-2111, 15-31-113, 15-31-114, MCA

42.2.308 NONRESIDENT CALCULATION OF MONTANA SOURCE INCOME REALIZED AND RECOGNIZED WHEN MONTANA PROPERTY IS RELINQUISHED AS PART OF A SECTION 1031 EXCHANGE (1) and (2) remain the same.

(3) The nonresident must report the deferred Montana source income realized on the relinquishment of the Montana property if and when the gain is recognized for federal income tax purposes. The amount of Montana source income

recognized will never exceed the gain recognized for federal income tax purposes. The following examples illustrate how the Montana source income may be calculated in different situations:

(a) Example 1 - Same facts as in (2)(a). In a later tax year, the Wyoming replacement property is sold for \$150,000, the taxpayer reporting taxable gain of \$140,000 on their federal income tax return. The nonresident's \$80,000 of Montana source income realized on the Montana property exchange that was deferred has been recognized for federal income tax purposes and must be reported as Montana source income when the nonresident files the Montana individual income tax return required in ~~15-30-105~~ 15-30-2104, MCA.

(b) Example 2 - Same facts as in (3)(a), except the Wyoming replacement property is sold for \$60,000 and \$50,000 of taxable gain is reported on the taxpayer's federal income tax return. While \$80,000 of Montana source income was realized but deferred on relinquishment of the Montana property, only \$50,000 was recognized for federal income tax purposes. The nonresident must report the \$50,000 of Montana source income recognized when the nonresident files the Montana individual income tax return required in ~~15-30-105~~ 15-30-2104, MCA.

(c) Example 3 - Same facts as in (3)(a), except improvements with a cost of \$75,000 are erected on the Wyoming property and depreciation deductions of \$15,000 are claimed with respect to those improvements before the improved Wyoming property is sold for \$150,000. On the date of sale the fair market value of the improvements, which have an adjusted basis of \$60,000, is \$70,000, and the fair market value of the Wyoming property acquired in the exchange, which has an adjusted basis of \$10,000, is \$80,000. Of the \$80,000 of deferred Montana source income realized on relinquishment of the Montana property, \$70,000 has been recognized for federal income tax purposes and must be reported when the nonresident files the Montana individual income tax required in ~~15-30-105~~ 15-30-2104, MCA.

(d) Example 4 - Same facts as in (2)(c). The Wyoming replacement property is sold for \$150,000. The \$30,000 deferred Montana source income realized on relinquishment of the Montana property has been recognized for federal income tax purposes and must be reported when the nonresident files the Montana individual income tax return required in ~~15-30-105~~ 15-30-2104, MCA.

AUTH: 15-1-201, ~~15-30-305~~ 15-30-2620, MCA

IMP: ~~15-30-101, 15-30-103, 15-30-105, 15-30-131, 15-30-132, 15-30-1102, 15-30-1111, 15-30-1112~~ 15-30-2101, 15-30-2103, 15-30-2104, 15-30-2111, 15-30-2112, 15-30-3302, 15-30-3311, 15-30-3312, MCA

42.2.310 VOLUNTARY DISCLOSURE PROGRAM FOR NONFILING TAXPAYERS (1) through (5) remain the same.

AUTH: 15-1-201, ~~15-30-305~~ 15-30-2620, 15-31-501, MCA

IMP: 15-1-206, ~~15-30-101~~ 15-30-2101, ~~15-30-142~~ 15-30-2602, 15-31-101, 15-31-111, MCA

42.2.311 PUBLIC PARTICIPATION (1) through (2) remain the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.312 ACTIONS CONSIDERED TO BE OF SIGNIFICANT PUBLIC INTEREST (1) and (2) remain the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.313 NOTICE AND MEANS FOR PUBLIC PARTICIPATION (1) remains the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.321 DEPARTMENT PROGRAMS RELATED TO PUBLIC PARTICIPATION (1) remains the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.322 INFORMATIONAL MATERIALS (1) remains the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.323 PUBLIC ASSISTANCE (1) remains the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.324 NOTIFICATION OF INTERESTED PERSONS (1) and (2) remain the same.

AUTH: 2-4-201, 15-1-201, 16-1-303, 16-10-104, 16-11-103, MCA
IMP: Title 2, chapter 3, part 4 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 15-1-201, MCA

42.2.325 ACCESS TO INFORMATION (1) The department files, other than those files required by law to be closed, are open to public inspection in accordance

with established department policy. These files are located at various department offices in Montana. Copies of specific documents are available in accordance with department policy entitled, "Agency Documents - Access and Photocopying," 2.1.4, dated ~~June 3, 2003~~ January 3, 2013.

(2) through (6) remain the same.

AUTH: 2-4-201, 15-1-201, 15-7-306, 15-30-2620, 15-31-501, 16-1-303, 16-10-104, 16-11-103, MCA

IMP: Montana ~~constitution~~ Constitution, Art. II, sections 8, 9, and 10, ~~Title 2, chapter 3, part 1~~ 2-3-101, 2-3-102, 2-3-103, 2-3-104, 2-3-105, 2-3-111, 2-3-112, 2-3-113, 2-3-114, 2-4-201, 2-6-102, 2-6-109, 2-6-110, 2-6-202, 15-1-106, 15-7-310, 15-30-2618, 15-31-511, 15-38-109, 15-68-815, MCA

42.2.501 APPLICATION OF PARTIAL PAYMENTS (1) through (4) remain the same.

AUTH: 2-4-201, 15-1-201, ~~15-30-305~~ 15-30-2620, 15-31-501, 15-35-122, 15-53-155, MCA

IMP: 2-4-201, 15-1-206, 15-1-216, ~~15-30-304, 15-30-321, 15-30-323~~ 15-30-2619, 15-30-2641, 15-30-2642, 15-31-111, 15-31-502, 15-31-506, 15-31-510, 15-31-522, 15-31-543, 15-35-105, 15-35-121, 15-37-108, 15-38-107, 15-38-110, 15-53-145, 15-59-106, MCA

42.2.503 JEOPARDY ASSESSMENT AND EMERGENCY EXECUTION

(1) through (1)(e) remain the same.

(f) that while filing the objection or request as provided in (1)(e) will not stop or delay collection proceedings, including issuing a Warrant for Dstraint, if the taxpayer files the objection or request and it is subsequently determined in the department dispute resolution proceedings or on subsequent appeal that the amount of tax collected is in excess of the amount due, the amount of the overpayment will be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess refunded to the taxpayer as provided in ~~15-30-149~~ 15-30-2609 and 15-31-531, MCA.

(2) through (2)(c) remain the same.

(d) that if it is subsequently determined in the department dispute resolution proceedings or on subsequent appeal that the amount of tax collected is in excess of the amount due, the amount of the overpayment will be credited against any income tax, penalty, or interest then due from the taxpayer and the balance of the excess refunded to the taxpayer as provided in ~~15-30-149~~ 15-30-2609 and 15-31-531, MCA.

(3) and (4) remain the same.

AUTH: 15-1-201, ~~15-30-305~~ 15-30-2620, 15-31-501, 15-36-322, 15-39-114,
MCA

IMP: ~~15-30-204, 15-30-312~~ 15-30-2504, 15-30-2631, 15-31-522, 15-31-525,
15-31-531, 15-36-319, 15-37-107, 15-38-107, 15-38-108, 15-39-106, MCA

42.2.504 PENALTIES (1) and (2) remain the same.

(3) A taxpayer who files, renders, or signs a false or fraudulent return or statement, or who supplies the department with false or fraudulent information, is subject to the additional civil and criminal penalties described in ~~15-30-324~~ 15-30-2641, MCA.

AUTH: ~~15-30-305~~ 15-30-2620, MCA

IMP: 15-1-216, ~~15-30-321~~, ~~15-30-323~~ 15-30-2641, 15-30-2642, MCA

42.2.505 INTEREST ON UNPAID TAX (1) and (2) remain the same.

AUTH: ~~15-30-305~~ 15-30-2620, 15-31-501, MCA

IMP: 15-1-216, ~~15-30-142~~ 15-30-2602, 15-31-502, 15-31-503, 15-31-510,
MCA

42.2.510 REVIEW OF STATEMENT OF ACCOUNT (SOA) NOTICES

(1) This rule applies to all department actions where a ~~statement of account~~ Statement of Account (SOA) or deficiency assessment, as those terms are defined in ARM 42.2.304, is issued. A statement of account does not include centrally assessed appraisal reports and centrally assessed assessment notices which are covered by ARM 42.2.511.

(2) The department will provide notification to the ~~customer~~ taxpayer by mailing the SOA ~~as defined in ARM 42.2.613~~, to the ~~customer~~ taxpayer as prescribed in 15-1-211, MCA. Information provided on the SOA shall advise the ~~customer~~ taxpayer of the requirement to file a Request for Informal Review Form APLS101F (APLS101F) or a written objection to the SOA with the department within 30 days from the date of the SOA; and that failure to file a written objection within the 30 days shall be deemed an admission that the ~~customer~~ taxpayer agrees the debt stated in the SOA is due and owing.

(a) If the ~~customer~~ taxpayer agrees with the SOA, the matter is resolved upon compliance with, or acceptance of, the terms set forth in the SOA.

(b) If the ~~customer~~ taxpayer does not pay or respond to the SOA as required in (2), a letter will be sent to the ~~customer~~ taxpayer requesting payment within 30 days of the date of the letter or a Warrant for Distraint may be issued pursuant to 15-1-702, MCA.

(c) and (d) remain the same.

(3) The ~~customer~~ taxpayer must submit, to the department, an objection to the SOA within 30 days of the date on the SOA. If the objection is sent by the U.S. Postal Service or by any other generally accepted delivery service, the objection must be postmarked within 30 days of the date of the SOA. If it is sent by electronic mail, it must be sent within 30 days of the date of the SOA. Failure to respond within the 30 days shall be deemed an admission that the ~~customer~~ taxpayer concurs that they owe the debt stated in the SOA.

(a) through (4) remain the same.

(5) The department shall review the objection and determine whether the department agrees or disagrees with the ~~customer's~~ taxpayer's objections. The department shall mail written notice to the ~~customer~~ taxpayer advising the ~~customer~~

taxpayer of the department's determination within 30 days after receipt of the objection.

(a) If the department concurs with the customer taxpayer, the matter is resolved by withdrawing or revising the SOA.

(b) If the department disagrees with the customer taxpayer, it shall explain the reasons for the disagreement, notify the customer taxpayer of the dispute resolution procedures, and provide a copy of Notice of Referral Form (APLS102F). The department shall also notify the customer taxpayer that the customer taxpayer must submit an APLS102F or detailed letter to the department within 15 days of the date on the Notice of Determination from the department, and that the customer taxpayer will forfeit the right to a hearing if the customer taxpayer fails to submit the APLS102F or detailed letter within the 15-day period.

(6) Appeals shall be submitted to the Office of Dispute Resolution if the customer taxpayer decides to appeal the department decision, as required in 15-1-211, MCA. This may be done by completing the APLS102F, or by providing a detailed letter and submitting either document to the department within 15 days of the date of the Notice of Determination from the department. Appeals should be sent to the Department of Revenue, Office of Dispute Resolution, P.O. Box 7701, Helena, Montana 59604.

(a) Failure to file an appeal by the customer taxpayer within 15 days of the date of the Notice of Determination by the department shall be deemed an admission that the customer taxpayer concurs that the debt stated in the SOA is due and owing.

(b) If the customer taxpayer pays the bill, the matter is resolved.

(c) If the customer taxpayer does not pay the bill, the matter will be referred to ARC for collection.

(7) Once the matter is submitted to ODR the Office of Dispute Resolution (ODR), ARM 42.2.613 through 42.2.621 apply. The department has 180 calendar days from the referral date to resolve the matter.

(8) remains the same.

(9) If the department fails to comply with the deadlines in this rule, the customer taxpayer may immediately refer the matter to the Office of Dispute Resolution ODR.

AUTH: 15-1-201, 15-1-211, 15-1-701, 15-31-501, 15-35-122, 15-36-322, 15-39-114, MCA

IMP: 15-1-211, 15-1-406, 15-8-601, ~~15-23-102, 15-23-107, 15-30-142~~ 15-30-2602, 15-31-503, 15-35-112, 15-36-313, 15-36-314, ~~15-37-109~~ 15-37-110, 15-37-114, ~~15-37-210, 15-38-108~~ 15-38-110, ~~15-39-110~~ 15-39-104, MCA

42.2.511 REVIEW OF CENTRALLY ASSESSED PROPERTY APPRAISALS

(1) remains the same.

(2) Appraisal reports will be mailed to the customer taxpayer as provided in ARM 42.22.115. The appraisal report shall advise the customer taxpayer of the requirement to file a Request for Informal Review Form APLS104F (CAB-8) or a written objection to the appraisal report within 15 days of the date of the appraisal report; and that failure to file a written objection within the 15 days shall be deemed

an admission that the ~~customer~~ taxpayer agrees with the appraisal is correct and final. If the ~~customer~~ taxpayer agrees with the appraisal, no response is required and the department will advise the local department field office and the ~~customer~~ taxpayer by issuing an assessment notice on or before July 1 of the year of assessment that the appraisal is final.

(3) Objections to an appraisal report shall be sent to the department within 15 days of the date on the appraisal report. If the objection is sent by the U.S. Postal Service or by any other generally accepted delivery service, the objection must be postmarked within 15 days of the date of the appraisal report. If it is sent by electronic mail, it must be sent within 15 days of the date of the appraisal report. Failure to respond within the 15 days shall be deemed an admission that the ~~customer~~ taxpayer concurs with the appraisal as stated in the appraisal report.

(a) remains the same.

(b) Electronic objections will be accepted. The e-mail address, ~~soaobjection.mt.gov~~ soaobjections@mt.gov, is provided on the appraisal report in the appeal rights section.

(4) remains the same.

(5) The department shall review the objection and determine whether the department agrees or disagrees with the ~~customer's~~ taxpayer's objections. The department shall mail written notice to the ~~customer~~ taxpayer advising the ~~customer~~ taxpayer of the department's determination within 15 days after receipt of the objection.

(a) If the department concurs with the ~~customer~~ taxpayer, the matter is resolved by revising the appraisal report and issuing a final assessment notice.

(b) If the department disagrees with the ~~customer~~ taxpayer, it shall explain the reasons for the disagreement by issuing a revised appraisal report, ~~notify~~ notifying the ~~customer~~ taxpayer of the dispute resolution procedures and ~~provide~~ providing a copy of ~~Form APLS101F~~ the Notice of Referral to the Office of Dispute Resolution (APLS102F). The department shall also notify the ~~customer~~ taxpayer that the ~~customer~~ taxpayer must submit ~~Form APLS101F~~ the APLS102F or a detailed letter to the department within 15 days of the date on the revised appraisal report, and that the ~~customer~~ taxpayer will forfeit the right to a hearing if the ~~customer~~ taxpayer fails to submit the ~~Form APLS101F~~ APLS102F or detailed letter within the 15-day period. Appeals should be sent to the Department of Revenue, Office of Dispute Resolution, P.O. Box 7701, Helena, Montana 59604.

(6) If the ~~customer~~ taxpayer decides to appeal the department's decision, the ~~customer~~ taxpayer shall:

(a) through (8) remain the same.

(9) If the department fails to comply with the deadlines in this rule, the ~~customer~~ taxpayer may immediately refer the matter to ODR.

(10) ~~The following flow chart shows the process beginning with the appraisal report being provided to the customer:~~

AUTH: 15-1-201, 15-1-211, 15-23-108, MCA

IMP: 15-1-211, 15-1-406, 15-8-601, 15-23-102, 15-23-107, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity in number 3, the department proposes amending ARM 42.2.511 to correct a form name and remove an obsolete reference to a flow chart.

42.2.520 COLLECTION OF DELINQUENT TAXES OR OTHER FUNDS THROUGH OFFSET PROCEDURES (1) through (7) remain the same.

AUTH: 15-1-201, 15-1-217, ~~15-30-305~~ 15-30-2620, 17-4-110 MCA

IMP: 15-1-211, 15-1-216, ~~15-30-310~~ 15-30-2629, 17-4-103, 17-4-105, 17-4-106, 17-4-111, MCA

42.2.901 DEFINITIONS The following definitions apply to rules found in this subchapter.

(1) and (2) remain the same.

(3) remains the same but is renumbered (4).

(4) remains the same but is renumbered (3).

AUTH: 15-1-201, MCA

IMP: 15-1-409, 20-9-369, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.2.901 to correct the alphabetical order of the rule content.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than June 20, 2014.

6. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. An electronic copy of this notice is available on the department's web site, revenue.mt.gov. Select the Administrative Rules link under the Other Resources section located in the body of the homepage, and open the Proposal Notices section within. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register,

but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Laurie Logan
LAURIE LOGAN
Rule Reviewer

/s/ Mike Kadas
MIKE KADAS
Director of Revenue

Certified to the Secretary of State on May 12, 2014